

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**SYDNI BEUHLER,
Plaintiff,**

v.

**CITY OF AUSTIN AND
JOHN DOES
Defendants.**

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 1:21-CV-00054-RP

**DEFENDANT CITY OF AUSTIN'S ANSWER AND
AFFIRMATIVE DEFENSES TO PLAINTIFF'S ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant City of Austin files this Answer and Affirmative Defenses to Plaintiff's Original Complaint (Doc. No. 1). Pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure, Defendant respectfully shows the Court the following:

ORIGINAL ANSWER

Pursuant to Federal Rule of Civil Procedure 8(b), Defendant responds to each of the specific averments in Plaintiff's Complaint as set forth below. To the extent that Defendant does not address a specific averment made by Plaintiff, Defendant expressly denies that averment.¹

This Defendant denies the allegations contained in the first unnumbered paragraph in Plaintiff's Original Complaint.

INTRODUCTION

As to the paragraphs in the Complaint labeled "Introduction," Defendant denies the allegations contained in the "Introduction."

¹ Paragraph numbers in Defendant's Answer correspond to the paragraphs in Plaintiffs' Original Complaint.

PARTIES

1. Upon information and belief, Defendant admits the allegations contained in Paragraph 1.
2. Defendant admits the allegations contained in Paragraph 2.
3. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 3 of the Complaint and therefore denies same.

JURISDICTION

4. Defendant admits the allegations contained in Paragraph 4.
5. Defendant admits the allegations contained in Paragraph 5.
6. Defendant admits that this Court has personal jurisdiction over the Defendants. Defendant denies the remaining allegations contained in Paragraph 6.

VENUE

7. Defendant admits the allegations contained in Paragraph 7.

FACTS

8. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint and therefore denies same.
9. Defendant denies the allegations contained in Paragraph 9.
10. Defendant denies the allegations contained in Paragraph 10.
11. Defendant denies the allegations contained in Paragraph 11.

CLAIMS

12. Defendant incorporates and adopts its responses to the previous paragraphs of the Complaint.
13. Defendant denies the allegations contained in Paragraph 13.
14. Defendant is without sufficient knowledge to form a belief as to the truth of the allegations contained in Paragraph 14 of the Original Complaint and therefore denies same.

15. Defendant denies the allegations contained in Paragraph 15.
16. Defendant denies the allegations contained in Paragraph 16.
17. Defendant denies the allegations contained in Paragraph 17.
18. Defendant incorporates and adopts its responses to the previous paragraphs of the Complaint.
19. Defendant denies the allegations contained in Paragraph 19.
20. Defendant admits the allegations contained in Paragraph 20.
21. Defendant denies the allegations contained in Paragraph 21.
22. Defendant denies the allegations contained in Paragraph 22.
23. Defendant denies the allegations contained in Paragraph 23.
24. Defendant denies the allegations contained in Paragraph 24.
25. Defendant incorporates and adopts its responses to the previous paragraphs of the Complaint.
26. Defendant denies the allegations contained in Paragraph 26.
27. Defendant incorporates and adopts its responses to the previous paragraphs of the Complaint.
28. Defendant denies the allegations contained in Paragraph 28.
29. Defendant denies the allegations contained in Paragraph 29.
30. Defendant denies the allegations contained in Paragraph 30.
31. Defendant denies the allegations contained in Paragraph 31.
32. Defendant denies the allegations contained in Paragraph 32.

DAMAGES

33. Defendant incorporates and adopts its responses to the previous paragraphs of the Complaint.

34. Defendant denies the allegations contained in Paragraph 34.

REQUEST FOR JURY TRIAL

35. Paragraph 35 is merely Plaintiff's Request for Jury Trial and requires no response from the Defendant.

PRAYER

36. Defendant denies the allegations contained in Paragraph 36.

AFFIRMATIVE DEFENSES

1. Defendant City of Austin asserts the affirmative defense of governmental immunity as a municipal corporation entitled to immunity while acting in the performance of its governmental functions, absent express waiver.

2. Defendant City of Austin asserts the affirmative defense of governmental immunity since its employees are entitled to qualified/official immunity for actions taken in the course and scope of their employment, absent express waiver.

3. As a political subdivision, Defendant City of Austin denies that it can be liable for exemplary/punitive damages under 42 U.S.C. § 1983.

4. Defendant reserves the right to assert additional affirmative defenses throughout the development of the case.

DEFENDANT'S PRAYER

Defendant City of Austin prays that all relief requested by Plaintiff be denied, that the Court dismiss this case with prejudice, and that the Court award Defendant costs and attorney's fees, and any additional relief to which it is entitled under law or equity.

RESPECTFULLY SUBMITTED,

ANNE L. MORGAN, CITY ATTORNEY
MEGHAN L. RILEY, CHIEF, LITIGATION

/s/ David May
DAVID MAY
Assistant City Attorney
State Bar No. 24092778
david.may@austintexas.gov
City of Austin - Law Department
P. O. Box 1546
Austin, Texas 78767-1546
Telephone: (512) 974-2342
Facsimile: (512) 974-1311

**ATTORNEYS FOR DEFENDANT
CITY OF AUSTIN**

CERTIFICATE OF SERVICE

This is to certify that I have served a copy of the foregoing on all parties or their attorneys of record, in compliance with the Federal Rules of Civil Procedure, this 22nd day of March, 2021.

Rebecca Webber
rwebber@hendlerlaw.com
Scott M. Hendler
shendler@hendlerlaw.com
HENDLER FLORES LAW, PLLC
1301 West 25th Street, Suite 400
Austin, Texas 78705
Telephone: (512) 439-3202
Facsimile: (512) 439-3201

ATTORNEY FOR PLAINTIFF

/s/ David May
DAVID MAY